REMARKS-General

1. The newly amended independent claim 45 incorporates all structural limitations of the original claim 1 and includes further limitations previously brought forth in the disclosure. No new matter has been included. All new claims 45-60 are submitted to be of sufficient clarity and detail to enable a person of average skill in the art to make and use the instant invention, so as to be pursuant to 35 USC 112.

2. With regard to the rejection of record based on prior art, Applicant will advance arguments to illustrate the manner in which the invention defined by the newly introduced claims is patentably distinguishable from the prior art of record. Reconsideration of the present application is requested.

Response to Rejection of Claims 45-60 under 35USC103

3. The Examiner rejected claims 45-60 under 35USC103(a) as being unpatentable over Powell (US 2001/0032189) in view of Shkedy (US 6,260,024) and Kuelbs (US 7,136,830). Pursuant to 35 U.S.C. 103:

"(a) A patent may not be obtained thought the invention is **not identically** disclosed or described as set forth in **section 102 of this title**, if the **differences** between the subject matter sought to be patented and the prior art are such that the **subject matter as a whole would have been obvious** at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made."

4. In view of 35 U.S.C. 103(a), it is apparent that to be qualified as a prior art under 35USC103(a), the prior art must be cited under 35USC102(a)~(g) but the disclosure of the prior art and the invention are not identical and there are one or more differences between the subject matter sought to be patented and the prior art. In addition, such differences between the subject matter sought to be patented **as a whole** and the prior art are obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains.

5. In other words, the differences between the subject matter sought to be patent as a whole of the instant invention and Powell which is qualified as prior art of the

instant invention under 35USC102(e) are obvious in view of Shkedy and Kuelbs at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains.

6. The applicant respectfully submits that the differences between the instant invention and Powell are not obvious in view of Shkedy and Kuelbs under 35USC103(a), due to the following reasons.

7. Powell fails to teach a method for optimally marketing invented products, comprising the steps of (a) providing a Consumer-to-Business (C2B) network, and a central processing web site which is run and managed in a Central Processing Center (CPC) through the Consumer-to-Business (C2B) network. The examiner refers to Paragraph 0071 of Powell as a teaching of this step. Paragraph 0071 reads:

"...The invention allows originators of ideas to communicate nondisclosing synopses of ideas directly or globally to potential users, for users conveniently to search for relevant ideas and ***for users potentially to bind an originator to a license granting the user the right to access and consider confidentially the originator's fully disclosed idea.*** The invention also allows users to communicate confidentially or nonconfidentially unsolved problems or needs globally to potential originators, for originators conveniently to search for relevant unsolved problems or needs and for originators to submit and communicate confidentially proposed solutions to the soliciting user."

8. One of the distinctive features of the instant invention is that the customers side of the C2B network **does not gain access to confidential information**. Moreover, the instant invention does not primarily facilitate granting of licenses. Each of the customers and the inventors does not share confidential information directly. Rather, they interact with each other through the C2B network and the central processing website.

9. For step (b), the examiner cites Paragraph 109 as a teaching of the step of accepting registration of one or more invention products in an information database of the C2B network, and storing invention information of the invention products provided by inventors. Paragraph recites that:

"Originator database 257 maintains data on originators with input fields...This information is obtained when an originator first submits an idea and registers with the system, and thereafter as the originator generates a unique transactional history by using the system for subsequent postings. Originator

database 257 also contains the tracking number of each FDI 130a and NDS(FDI) 100a submitted by the originator, and the tracking number of each user response and each FDI transfer agreement proposed by the user."

10. From the identified paragraph, it is merely the "idea" that is submitted to the originator database. In the instant invention, however, it is the information about the invention product itself that is stored in the database. There is a difference between an abstract idea and something which has been invented by employing that abstract idea. The examiner in the Office Actions argues, citing patent law, that it suffices if the idea is one which enables one having ordinary skill in the art to make the invention in question. However, nothing in Powell suggests that the particularity of the "idea" disclosed in that application allows such an inference. When the particularity of an idea is such that a people having ordinary skill in the art would not have sufficient information to make the invention, those one have access to the "idea" does not have any information for any particular invention. Powell does not define the concept of "idea" in any particular detail. It can only be interpreted by reference to its ordinary meaning.

11. For step (c), Powell also fails to teach the step of storing information given by registered consumers regarding to specific needs of product in the information database of the C2B network, and inviting the registered Consumers to place acceptable purchasing prices for at least one of the registered invention products respectively, wherein each of the registered consumers are invited to take part into surveys regarding interests and needs in the invention products, wherein the information provided by the registered consumers is stored into a purchasing database, wherein the invention product and invention information are carefully verified to ensure that the invention products registered in the C2B network **are in the state of reduction-to-practice**.

12. The examiner refers to Paragraph 0029 of Powell as a teaching of this step. Paragraph 0029 reads:

"In one user-driven embodiment of this invention, a user who desires to post a request for proposal comprising a fully disclosed unmet need or unsolved problem ("RFP") accesses the central controller located on a remote server. The user electronically submits the RFP, creates a nondisclosing synopsis of the RFP ("NDS(RFP)") and specifies the subject matter of the RFP desired to be posted and/or the intended originator whom the user believes is capable of proposing solutions to the user's RFP. For

example, a typical RFP might be a request for method for formation of crystalline metal oxides at low temperatures. The specified subject matter would be chemical process and a potential intended originator would be the University of New Mexico."

13. In this paragraph, there is no optimal matching of consumer's need to an actual invention which has been reduced to practice. The verification and the provision of a purchase price are not absence in this particular part of disclosure.

14. Furthermore, the examiner refers to Paragraphs 0043 and 0030 as a teaching of step (d), which is matching at least one invention product in the information database with the information provided by the registered consumers regarding the specific needs of the product, and using purchasing data analyzed and grouped from the information provided by the registered consumers to estimate an actual number of orders needed for each of the registered invention products when the purchasing price suggested by the registered consumers is equal to or more than the suggested selling price of the relevant registered invention product;

15. Paragraph 0043 reads:

"In another embodiment, the invention is an apparatus to facilitate transactions between a user and an originator. A computer includes a processor and storage device. A computer program causes the computer to store using the storage device a basic description and a corresponding detailed description of the user's unmet needs or unsolved problems. The computer program causes the computer to allow the originator to access the basic description of the user's unmet needs or unsolved problems. The computer program causes the computer to allow the originator to access the corresponding detailed description by agreeing to an online license agreement."

16. On the other hand, Paragraph 0030 reads:

The present invention is therefore a highly effective and efficient bilateral user-driven commerce system that improves the ability of users to reach originators capable of satisfying users' unmet needs and unsolved problems and improves originators' ability to identify relevant RFPs and submit FDIs comprising a solution to users' RFPs.

17. None of the recited paragraphs teaches matching of invention products and specified needs. There is no disclosure as to using purchasing data analyzed and grouped from the information provided by the registered consumers to estimate an

actual number of orders needed for each of the registered invention products when the purchasing price suggested by the registered consumers is equal to or more than the suggested selling price of the relevant registered invention product. The Paragraphs do not suggest the particular embodiment of the instant invention.

18. The examiner refers to Paragraphs 0078 and 0247 as a teaching of step (e). Paragraph 0078 reads:

"Limited protection is available, however, for all ideas (whether in the public domain, disclosed or undisclosed) under a developing area of law commonly referred to as the Law of Undeveloped Ideas. Such protection is limited because the protection is applicable only as between contracting parties. ***This body of law enforces contractual obligations to pay the originator of a creative idea for its use.*** He who takes the benefit must take the burden. The benefit in the case of idea disclosure is access to the originator's ideas; the burden is that if the user decides to implement the originator's idea, the user must pay for such use."

19. Nothing in this paragraph recites **accepting orders of at least one of the invention products through the Consumer-to-Business (C2B) network from at least one of the registered consumers**, in such a manner that the registered consumer is able to decide to selectively purchase the corresponding **invention products** at a predetermined volume and a predetermined price, and requesting payments from the registered consumers for the ordered invention products of the registered consumers, wherein the registered consumer **is also allowed to designate a place for picking up the invention products**. It seems from paragraph 0078 that one who gains access to confidential information is under an obligation to pay to the originator of a creative idea for its use. This is something different from the instant invention. In the instant invention, there is no such an obligation. Consumers are freely to purchase invented products in whatever quantity they want, **but they are not obliged to place any order**. The main subject matter of the instant invention is to optimally fit the supply and demand of any invented product, so as to maximize resources allocation in the market of invented products.

20. On the other hand, Paragraph 0247 reads:

"...the user is then asked by the system to agree to the terms of a submission agreement. User agrees to the terms of the submission agreement and the fully disclosed need is stored in a secure database.

The nondisclosing synopsis is made available globally via the World Wide Web to a plurality of potential originators capable of proposing slogans or directly to an intended and identifiable user. If an originator is interested in reviewing the entire fully disclosed need, originator clicks on the "access" icon. The originator is then asked by the system to agree to the terms of a license agreement granting the user the right to review and consider the user's fully disclosed need. If originator agrees, originator is granted access to the entire need for consideration pursuant to the terms of the online license agreement. If originator is interested in proposing a solution to the user's need (e.g., a slogan such as "ACE is the place with the helpful hardware man") for use by the soliciting user, originator submits the proposed solution as an FDI (fully disclosed idea) in the manner described above. The soliciting user is then able to review all NDSs submitted as proposed solutions and to access, pursuant to an online license agreement, only those fully disclosed solutions which the user determines warrant further consideration. If soliciting user identifies a slogan it wishes to use, user negotiates for the right to use the originator's proposed slogan. Terms are negotiated, payment is submitted to originator, and user is granted the right to use originator's slogan according to the terms of a negotiated agreement."

21. This paragraph has nothing to do with accepting orders for products which have already been invented and reduced to practice.

22. Paragraph 0012 of Powell reads:

"The present invention is a method and apparatus for effectuating bilateral commerce in ideas. The present invention is both an originator- and user-driven online commercial network system designed to ***facilitate idea submission, purchase and licensing and is easily adapted to business-to-business (B2B) transfers of innovation as well as consumer-to-business (C2B) transfers of innovation***. The invention allows originators of ideas to communicate nondisclosing synopses of ideas directly or globally to potential users, for users conveniently to search for relevant ideas and for users potentially to bind an originator to a license granting the user the right to access and consider confidentially the originator's fully disclosed idea. The invention also allows users to communicate confidentially or nonconfidentially unsolved problems or needs globally to potential originators, for originators conveniently to search for relevant unsolved problems or needs and for originators to submit and communicate confidentially proposed solutions to the soliciting user."

23. From this paragraph, it is very clear that the subject matter of Powell's invention is to facilitate transfers and transactions of new ideas. It does not, however, involves **marketing of invented products.** In Powell, it seems that it is the consumers of that C2B platform who actually perform the production of invented products. In the

instant invention, it is the inventor side of the C2B platform who actually performs the production of invented products by contacting suppliers in part (f).

24. The examiner refers to Shkedy as a teaching of step (c) recited in claim 45. In response, the applicant respectfully submits that Shkedy merely discloses methods for providing a global bilateral buyer-driven system for creating binding contracts by incorporating various methods of communication, commerce and security for the buyers and the sellers. It does not contain any disclosure for matching invented products with consumers need. The applicant respectfully submits that the main patentable subject matter of the instant invention is to optimize supply and demand of invented product, so as to minimize the risk of an inventor producing his or her invented products, and indirectly to encourage inventing activities. In short, it merely provides typical financial or transactional steps in general. It does not, however, teach the step of storing information given by registered consumers regarding to **specific needs of product, wherein this specific need of products are invented products, with a view to optimize supply and demand of such invented products.**

25. Moreover, the examiner refers to Kuelbs as a teaching of step (f). In response, the applicant respectfully submits that Kuelbs merely discloses a dynamic on-line order gathering system that enables sellers to offer one or a combination of goods whose availability (production and/or shipping) may be economically linked in some ways with other items and which facilitates aggregation of demand across related items so as to enable the ability to reach critical mass of demand for the related goods **by a more efficient means than currently available**. In the instant invention, step (f) not only evaluate the demand of particular goods, but also adjust the production of invented products. This is particularly important and unique in the market of invented products because the inventor never knows the demand of any potential inventions. In other transactions, the products have already been manufactured and any marketing or logistics methods relate to efficient sales of the products.

26. The applicant respectfully submits that the only mention of the steps recited in claim 45 is in applicants own specification and claims. Accordingly, it appears that the Examiner has fallen victim to the insidious effect of a hindsight analysis syndrome where that which only the inventor taught is used against the teacher in *W.L*

Gore and Associates v. Garlock, Inc., 220 USPQ 303, 312-313 (Fed. Cir. 1983) cert. denied, 469 U.S. 851 (1984).

27. The applicant respectfully submits that in the recent case of *KSR V Teleflex 127* S.Ct. 1727 (2007), the Supreme Court held that in order to determine obviousness, a totality of circumstances test should be used. In the rejections made by the examiner, some of the steps are referenced to documents which deal with completely different issues and resolve different problems. There is no motivation, teaching, or suggestion to utilize the other references (notably Shkedy and Kuelbs) in a way identical to the instant invention.

28. Applicant believes that for all of the foregoing reasons, all of the claims are in condition for allowance and such action is respectfully requested.

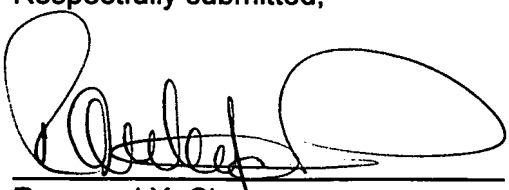
The Cited but Non-Applied References

29. The cited but not relied upon references have been studied and are greatly appreciated, but are deemed to be less relevant than the relied upon references.

30. In view of the above, it is submitted that the claims are in condition for allowance. Reconsideration and withdrawal of the rejection are requested. Allowance of claims 45-60 at an early date is solicited.

31. Should the examiner believe that anything further is needed in order to place the application in condition for allowance, he is requested to contact the undersigned at the telephone number listed below.

Respectfully submitted,



Raymond Y. Chan
Reg. Nr.: 37,484
108 N. Ynez Ave.
Suite 128
Monterey Park, CA 91754
Tel.: 1-626-571-9812
Fax.: 1-626-571-9813

CERTIFICATE OF MAILING OR TRANSMISSION

I hereby certify that this correspondence is being deposited with the United States Postal Service with proper postage as first class mail in an envelope addressed to: "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" or being facsimile transmitted to the USPTO on the date shown below.

Signature: _____ Date: 11/18/2009

Name in print: Raymond Y. Chan